

SOUTHERN WESLEYAN UNIVERSITY POLICY

Policy Title: Protection of Minors	Policy Number: 4.1
Authority: President's Cabinet, Title IX Coordinator, Director of Human Resources	See Also: 4.3 Sexual Misconduct 4.4 Personal Relationships
Date Adopted: 05/29/2018 Date Revised: 08/25/2020	Student Handbook Faculty Handbook Staff Handbook

Southern Wesleyan University ("SWU") is committed to providing a safe environment for minors who may be on SWU's campus or participating in a University Activity. This policy provides definitions, guidelines and procedures should abuse of a minor, within the scope and definitions of this policy, be identified or suspected.

I. Policy Statement

Inappropriate behavior with minors violates the biblical principles upon which the University is founded, it harms the reputation of the university, and damages the lives of both the abused and the abuser. In addition to clearly violating biblical standards and causing deep emotional and spiritual wounds in the abused, this behavior violates federal and state laws.

Southern Wesleyan University is fully committed to the biblical standard of sexual integrity as defined and practiced by The Wesleyan Church. The discussion of sexual behaviors within this policy should not be construed as an endorsement of inappropriate sexual activity.

- A. Scope and Interaction with Sexual Misconduct Policy. All faculty, staff, students, volunteers and third-party entities are expected to comply with the provisions of this policy. Information concerning awareness and prevention of abuse of minors will be provided to employees, students, and volunteers based on the nature of their positions. The University also has a Sexual Misconduct Policy which is adopted pursuant to Title IX of the Educational Amendments of 1972 and its implementing regulations at 34 CFR § 106. Misconduct that violates this Protection of Minors policy will be dealt with pursuant to this policy except to the extent such conduct implicates Title IX, in which case the procedures of the Sexual Misconduct policy will apply.
- B. Prohibitions. In light of these principles and laws, SWU states the following prohibitions, applicable to its employees, students, volunteers, and agents, and to any University Activity. Any faculty, staff, student, volunteer or third-party entity SWU determines has violated any of the below prohibitions will be subject to disciplinary action, up to and including termination or dismissal. In addition, the incident will be reported to law enforcement, as appropriate.
1. The abuse, exploitation, or molestation of minors is forbidden; this includes but is not limited to sexual abuse as defined hereinafter.
 2. Unconsented sexual activity with a minor – or any person – is forbidden.
 3. Conduct constituting the crime of criminal sexual conduct, in any degree, including

criminal sexual conduct with a minor, as defined under the South Carolina Code of Laws, is forbidden, as is conduct violating any other state or federal law aimed at protecting minors from sexual abuse, exploitation, or molestation.

4. The possession or distribution of child pornography on SWU's campus or using devices or media belonging to SWU is forbidden.

II. Definitions

The following are definitions applicable to SWU's Protection of Minors Policy

- A. **Minor.** For the purpose of this policy, a minor is defined as any person who is 17 years of age or younger. A minor can be a person who is enrolled as a student at SWU, or a person participating in a University Activity as that term is defined below.
- B. **Consent.** While SWU requires all members of the community to abstain from intimate forms of sexual conduct outside of marriage (refer to the lifestyle statement and behavioral expectations for students and the standards of conduct for employees), Title IX of the Education Amendments of 1972 directs the University to define consent for the purposes of compliance with federal law. Consent is defined as the knowing and voluntary agreement to engage in a particular sexual activity. Consent may be expressed through words or conduct. In the case of a dispute over whether consent was given, the words and acts in question are to be evaluated in light of the totality of the circumstances as they would be understood and perceived by reasonable persons, with characteristics of the parties in question, under similar circumstances. This includes consideration of any past pattern between the parties. Consent is not effective if it results from: (a) coercion (including intimidation or the threat or use of force); (b) temporary or ongoing incapacity (including either physical or legal incapacity); (c) deception; or (d) any other circumstance that would prevent or deter the consenting party from voluntarily choosing whether or not to engage in sexual activity. While consent may be expressed by conduct, consent must be clear and must apply to the specific act in question. Consent will not be inferred from any of the following standing alone: (i) Silence or lack of resistance; (ii) A current or previous dating or sexual relationship; (iii) Consent to sexual conduct other than the act in question; (iv) Consent to sexual conduct at a different time; (v) Consent to sexual conduct with a different person; (vi) Attire or flirtatious or provocative comments or conduct; (vii) Agreeing to go on a date and/or accepting gifts, meals, or entertainment. Consent can be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent to particular sexual activity is withdrawn, that sexual activity should cease as promptly as is reasonably practicable. In South Carolina, at the time of the writing of this policy, the legal age of consent is 16. This means that persons under the age of 16 are, by law, **not able** to provide consent to sexual activities with another person.
- C. **Abuse.** Abuse of a minor occurs when the physical or mental health or welfare of a minor is harmed or threatened with harm through intentional acts or omissions of another person. Abuse may include physical, mental or sexual abuse, and can include neglect and/or abandonment.
 1. **Physical abuse** is any physical injury to a minor that is not accidental, such as beating, striking, shaking, or forcibly restraining.
 2. **Mental abuse may include** injury to the intellectual, emotional, or psychological capacity or functioning of a child.

3. **Neglect** may occur when harm is inflicted or is allowed to be inflicted upon a minor or act(s) of omissions (including failure to supply for minor's basic needs) present a substantial risk of physical or mental injury to the child. Abandonment of a minor is included in the definition of neglect.
 4. **Sexual abuse** includes any unconsented sexual activity with a minor; any sexual activity of any sort with a minor under 16; and any conduct constituting criminal sexual conduct under South Carolina law. For purposes of this policy, "sexual activity" includes but is not limited to intercourse, genital or other intimate contact, fondling, exhibitionism, activity intended to arouse sexually, and displaying or creating pornography. For the purpose of this policy, sexual abuse of a minor also includes behaviors found in SWU's Gender Non-Discrimination Policy including behaviors described as sexual assault and sexual harassment. Notwithstanding the foregoing, and to be consistent with South Carolina law, a person who is 18 years of age or younger will not be guilty of abuse for consensual sexual activity with a person who is at least 14 years of age.
- D. **University Activity.** For the purpose of this policy, a University Activity is any ongoing or planned activity that is an official activity of SWU or any department of SWU, that is formally permitted or recognized by SWU, that uses funds or resources provided by SWU, or that takes place on SWU's campus or property with SWU's consent. SWU reserves the right to impose discipline on employees for conduct occurring outside a University Activity.

III. Selection of Paid and Volunteer Workers

- A. **Application Process.** All employees and volunteers working with minors in a University Activity must complete an application (employees) or agreement (volunteers), reference checks, background checks, and a documented personal interview must have been completed before their first day of work or volunteering. The application or agreement (volunteers) includes a disclosure of criminal offense convictions and requests charges, locations, dates, and disposition of the offenses including felonies, misdemeanors, and summary offenses.
- B. **Background Screenings.** SWU's employment webpage and its job postings shall state that a background screening must be completed prior to the first day of employment. Conviction of a criminal offense is not a bar to employment in all cases; each case is considered on its own merit. State and national criminal records and sex offender registry searches, as well as a county criminal records search are conducted. Conviction for an offense involving minors precludes someone from being permitted to work with minors. Examples include, but are not limited to, incest, abandonment or endangerment of a minor, sexual molestation, indecency with a minor, and kidnapping. Other convictions for violent crimes or abuse also usually disqualify an individual from working with minors. Examples include, but are not limited to, public lewdness, indecent exposure, criminal homicide, aggravated assault, and sexual assault. The decision to disqualify or restrict an applicant from working with minors will be made in SWU's absolute discretion.

IV. Procedures for Reducing Risk and Abuse

- A. **Working with Individual Students.** A minor should not be alone with one adult except in public places or in areas that are in view of other staff. One-on-one counseling, mentoring, or tutoring of minors should be done in an open area, public place, or a location where private

conversations are possible but occur in full view of others. No one under the age of 18 will have sole responsibility or be alone with minors. An individual between the ages of 14 and 18 may assist with minors when an adult is supervising and present and after the individual has been screened.

- B. Open View. Rooms, offices, and spaces designated for minors will have an uncovered window in or beside the door, or the door will be left open to allow a view of the inside of the room or space.
- C. Physical and Emotional Boundaries. SWU employees and volunteers are prohibited from dating or becoming romantically involved with a minor. At all times, employees and volunteers must ensure that any necessary physical contact is appropriate, including, but not limited to, touching a minor's hand, side rather than frontal hugs, and no touching of private body areas. They should be sensitive to the situation; e.g., a hug may be appropriate in public with others around, whereas, it would not be in private.

V. Reporting

The following information outlines procedures for reporting incidents of abuse or sexual abuse of a minor.

- A. Any faculty, staff, or third party entity (collectively referred to as representative) of SWU who witnesses, has knowledge of, or has reason to suspect that a minor has been abused, sexually or otherwise, is required to immediately report such conduct to the appropriate law enforcement agency with jurisdiction for the crime. The SWU representative must also contact the Title IX Coordinator after making such a report to law enforcement. Reporting to a supervisor or other designated person does **not** relieve an individual of his or her obligation to file a report with law enforcement and the Title IX Coordinator. Students shall report suspected incident(s) to the appropriate SWU Administrator(s) (Title IX Coordinator, area Vice President, or President) or Campus Safety, who will report to the appropriate law enforcement agency and SWU Administrator(s).
- B. Upon receiving a report of abuse or sexual abuse of a minor, the Title IX Coordinator will immediately notify the University President and the Director of Campus Safety. In addition, the Title IX Coordinator will contact the appropriate executive cabinet member responsible for receiving such a report. The executive cabinet member will inform the Title IX Coordinator of other SWU employees that need to be notified (e.g. direct supervisor, human resources director, dean, division chair, etc.). In addition, the executive cabinet member will confer with the President's Cabinet to initiate a crisis management response plan, including appropriate further investigation. Legal counsel and the University's liability insurer shall be notified.
- C. Any employee, student, volunteer, or third party entity SWU determines has violated this policy or otherwise engaged in inappropriate behavior, abuse, or molestation will receive disciplinary action up to and including dismissal, or termination of employment or his/her volunteer relationship to the University. SWU reserves the right to immediately implement temporary protective measures (i.e. interim suspension, interim leave of absence, no-contact directives, temporary trespass notice, loss of privileges, etc.) upon receipt of a report and will keep these measures in place until completion of an institutional investigation.

- D. Once an abuser and victim(s) have been identified, SWU will be guided by these principles:
1. We will endeavor to protect the identities of victims and families who do not wish to be identified.
 2. We will limit disclosure of alleged incidents of abuse and molestation to that which is legally necessary and considered appropriate by the administration for the protection of all members of the community.

VI. Statement of Acknowledgement of Policy

Those who will be working with minors, while engaged in a University Activity, will be required to read this policy, sign a statement acknowledging that they have read it, and affirm that they will abide by its guidelines and procedures (Appendix 1).



PROTECTION OF MINORS POLICY

Acknowledgement and Signature Page

I have read, understand, and will abide by SWU’s Protection of Minors Policy.

Signature _____ Date _____

Print name _____

A copy of this page should be retained in employee and volunteer records maintained by each department; the original shall be sent to Human Resources.